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TITLE 18
PROFESSIONAL AND OCCUPATIONAL LICENSING
AGENCY 5
BOARD OF ACCOUNTANCY
CHAPTER 10
PUBLIC PARTICIPATION GUIDELINES

18 VAC 5-10-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

“Administrative Process Act” means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

~~“Agency” means any authority, instrumentality, officer, board, or other unit of state government empowered by the basic laws to make regulations or decide cases~~ “Board” means Board of Accountancy.

“Notification list” means the list used by the Board to notify persons or organizations pursuant to this chapter. Such list may include electronic mailing lists or regular mailing lists maintained by the Board.

24 "Organization" means any one or more association, advisory council, committee, corporation,
25 partnership, governmental body, or other legal entity.

26

27 "Person" means one or more individuals.

28

29 18 VAC 5-10-20. ~~Mailing~~ Notification list.

30

31 The ~~agency Board will~~ shall maintain a list of persons and organizations ~~who~~ that will be mailed
32 the following documents as they become available:

33

34 1. "Notice of Intended Regulatory Action" to promulgate, amend, or repeal regulations;

35 2. "Notice of Comment Period" and public hearings; and

36 3. Notice that ~~the a final regulations have~~ regulation has been adopted.

37

38 Failure of these persons and organizations to receive the documents for any reason shall not
39 affect the validity of any regulations otherwise properly adopted under the Administrative
40 Process Act, ~~§9-6.14:7.1 of the Code of Virginia.~~

41

42 18 VAC 5-10-30. Placement on the ~~mailing~~ notification list; deletion.

43

44 Any person or organization ~~wishing~~ may request to be placed on the ~~mailing~~ notification list ~~may~~
45 ~~do so~~ by indicating so electronically or in writing to the agency Board. In addition, the ~~agency~~
46 Board, at its discretion, may add to the list any person, organization, or publication it believes

47 will serve the purpose of ~~responsible~~ enhancing participation in the ~~formation or promulgation of~~
48 ~~regulations~~ regulatory process. Persons and organizations on the list will be provided all
49 information stated in 18 VAC 5-10-20. ~~Individuals and organizations~~ The Board may
50 ~~periodically may be requested~~ request persons and organizations on the list to indicate their
51 desire to continue to receive documents or to be deleted from the list. When mail is returned as
52 undeliverable over more than one day or there has been no response to a request from the Board,
53 ~~individuals~~ such persons and or organizations will be deleted from the list.

54

55 18 VAC 5-10-40. Petition for rulemaking.

56

57 Any person or organization may petition the ~~agency~~ Board to adopt a new regulation or amend
58 ~~any~~ an existing regulation. Any petition received shall appear on the Board's next agenda of the
59 ~~agency~~. The petition shall state (i) the substance and purpose of the rulemaking that is requested,
60 including reference to any applicable Virginia Administrative Code sections, and (ii) reference to
61 the legal authority of the Board to take the action requested. The agency Board shall consider
62 and respond to the petition within 180 days in accordance with § 2.2-4007 of the Code of
63 Virginia. The agency Board shall have sole authority to dispose of the petition.

64

65 18 VAC 5-10-50. Notice of ~~intent~~ Intended Regulatory Action.

66

67 Pursuant to § 2.2-4007 of the Code of Virginia, At at least 30 days prior to filing a proposed
68 regulation and the "Notice of Comment Period" and proposed regulations as required by §9-
69 6.14:7.1 of the Code of Virginia, the agency Board will shall publish a "Notice of Intended

70 Regulatory Action, or “NOIRA.” This ~~notice~~ NOIRA ~~will~~ shall provide for at least a 30-day
71 comment period and shall state whether the ~~agency~~ Board intends to hold a public hearing. If the
72 Board does not intend to hold a public hearing, it shall state the reason in the NOIRA. The
73 ~~agency~~ Board is required to hold a hearing on the proposed regulation upon request by (i) the
74 Governor or (ii) 25 or more persons. Further, the ~~notice~~ NOIRA shall describe the subject matter
75 and intent of the planned regulation. Such ~~notice~~ NOIRA shall be transmitted to the Registrar of
76 Regulations for inclusion in The Virginia Register of Regulations.

77

78 18 VAC 5-10-60. Informational proceedings or public hearings for existing rules.

79

80 ~~Within two years of the promulgation of a regulation~~ In accordance with §§ 2.2-4007.1 and 2.2-
81 4017 of the Code of Virginia, the agency Board shall periodically evaluate ~~it~~ its regulations for
82 effectiveness and continued need. The ~~agency~~ Board shall conduct an informal proceeding,
83 which may take the form of a public hearing, to receive public comment on existing ~~regulation~~
84 regulations. Notice of such proceedings shall be transmitted to the Registrar of Regulations for
85 inclusion in The Virginia Register and shall be sent to the persons and organizations on the
86 notification list identified in 18 VAC 5-10-30. Such proceedings may be held separately or in
87 conjunction with other ~~informational~~ informal proceedings.

88

89 18 VAC 5-10-70. Notice of formulation and adoption.

90

91 ~~At~~ Prior to any meeting of the agency Board or a subcommittee where ~~it is anticipated~~ the
92 formation or adoption of a regulation ~~will occur~~ is anticipated, the subject matter shall be
93 transmitted to the Registrar of Regulations for inclusion in The Virginia Register.

94
95 If ~~there are~~ one or more changes with substantial impact ~~on~~ are made to a regulation from the
96 time that it is published as a proposed regulation to the time it is published as a final regulation,
97 any person may petition the agency Board within 30 days from the publication of the final
98 regulation to request an opportunity for oral or written ~~submittals~~ comments on the changes to
99 the ~~regulations~~ regulation. If the agency Board receives requests from at least 25 persons for an
100 opportunity to make oral or written comment, the agency Board shall (i) suspend the regulatory
101 process for 30 days to solicit additional public comment and (ii) file notice of the additional 30-
102 day public comment period with the Registrar of Regulations, unless the agency Board
103 determines that the changes made are minor or inconsequential in their impact.

104
105 If the Governor finds that one or more changes with substantial impact have been made to
106 proposed regulation, he may suspend the regulatory process for 30 days to require the agency
107 Board to solicit further public comment on the changes to the regulation.

108
109 A draft of the agency's Board's summary description of public comment shall be sent by the
110 agency Board to all public commenters on the proposed regulation at least five days before final
111 adoption of the regulation.

112

113 18 VAC 5-10-80. Advisory committees.

114

115 The ~~agency~~ Board intends to appoint advisory committees as it deems necessary to provide
116 adequate participation in the formation, promulgation, adoption, and review of regulations. Such
117 committees are particularly appropriate when other interested parties may possess specific
118 expertise in the area of proposed regulation. The advisory committee shall only provide
119 recommendations to the ~~agency~~ Board and shall not participate in any final ~~decision-making~~
120 decision-making actions on a regulation.

121

122 When identifying potential advisory committee members, the ~~agency~~ Board may use the
123 following:

124

- 125 1. Directories of organizations related to the profession,
- 126 2. Industry, professional, and trade associations' mailing lists, ~~and~~ or
- 127 3. Lists of persons who have previously participated in public proceedings concerning this or a
128 related issue.

129

130 18 VAC 5-10-90. Applicability.

131

132 18 VAC 5-10-20, 18 VAC 5-10-30, 18 VAC 5-10-40, 18 VAC 5-10-60, and 18 VAC 5-10-70
133 shall apply to all regulations promulgated and adopted in accordance with ~~§9-6.14:9~~ 2.2-4012 of
134 the Code of Virginia except those regulations promulgated in accordance with ~~§9-6.14:4.1~~ §§
135 2.2-4002, 2.2-4006, 2.2-4011, 2.2-4012.1, 2.2-4018 or 2.2-4025 of the Administrative Process
136 Act.